

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURICIO R. MUNOZ,

Petitioner,

No. CIV S-04-1658 LKK EFB P

vs.

KEN CLARK, Warden,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On February 21, 2008, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner has filed objections to the findings and recommendations.¹

¹ Petitioner sought an extension of time to file objections, which the magistrate judge denied. However, petitioner filed his objections before this court completed its review of the matter. Thus, the court exercises its discretion to consider petitioner's objections.

Although the findings and recommendations erroneously listed August 23, 2005 as the date petitioner filed his initial petition in this court, F&R 2:12, the correct date (August 9, 2004)


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3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-
4 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire
5 file, the court finds the findings and recommendations to be supported by the record and by
6 proper analysis.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The findings and recommendations filed February 21, 2008, are adopted in
9 full; and
10 2. Respondent's July 18 ,2007, motion to dismiss is granted; and
11 3. This action is dismissed.

12 DATED: March 25, 2008.

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15 LAWRENCE K. KARLTON
16 SENIOR JUDGE
UNITED STATES DISTRICT COURT
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25 was used in the calculation for the limitations period, F&R 5:13. In addition, petitioner's state
26 habeas petition was filed on September 29, 2005, F&R 3:7, rather than on July 29, 2005, F&R
6:8.